



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/815,520 | 03/23/2001 | Myron Mosbarger | 03882.008 | 7505 |

7590 11/20/2002

PARSONS BEHLE & LATIMER
Suite 1800
201 South Main Street
Salt Lake City, UT 84111-2218

EXAMINER

TRAN, PHILIP B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2155

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/815,520

Applicant(s)
Mosbarger et al

Examiner
Philip B. Tran

Art Unit
2155



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 10, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-131 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-131 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 41-43, 45-51, 53-57, 59-62, 65-70, 72-77, 79-80, 82-89, 91-99, 101-108, 110-115, 117-122, 124-128 and 130-131 are rejected under 35 U.S.C 102(e) as being anticipated by Moura et al (Hereafter, Moura), U.S. Pat. No. 5,586,121.

Regarding claim 126, Moura teaches a method for providing bi-directional electronic communications between a client computer and an information provider, the electronic communications including both the reception and transmission of data, which comprises:

receiving download data from a satellite receiver in electronic communication with a server computer, the server computer being in electronic communication with the client computer (i.e., download data from the host server broadcast through satellite channel to the RLA/user 29

or client 73 via hybrid access system (HAS POP 26 or hybridware server 72)) [see Figs. 1&4 and Abstract and Col. 5, Line 22 - Col. 6, Line 29];

routing the download data to the client computer (i.e., routing the download data through downstream router to the client) [see Fig. 4 and Col. 6, Line 57 - Col. 7, Line 20]; and

receiving upload data from the client computer and transmitting the upload data via a communications device to the information provider (i.e., upload data from the client computer are forwarded back to the host computer via the upstream router 35 of the hybridware server 72) [see Figs 1 &4 and Abstract and Col. 7, Line 21 - Col. 8, Line 5].

Regarding claims 127-128, Moura further teaches the method as defined in claim 126 wherein the server computer further comprises a storage medium and wherein said server computer's routing of the download data includes storing the download data on said storage medium wherein said storage medium is an intermediate storage medium and wherein the download data is stored on said intermediate storage medium prior to receipt of the download data by said client computer (i.e., connected to the POP LAN switch 33 of the hybrid access system HAS POP 26 are data storage for storing data before routing to the client) [see Figs. 1-4 and Col. 6, Lines 30-56].

Regarding claim 130, Moura further teaches the method as defined in claim 126 wherein said server computer runs a server operating system (i.e., server application 70) [see Fig. 4]. It is inherent that every computer has its own operating system application.

Regarding claim 131, Moura further teaches the method as defined in claim 130 wherein said server computer routes the download data using a standard local area network protocol (i.e., routing the download data to the LAN including a plurality of client users) [see Col. 5, Lines 22-52 and Col. 6, Lines 30-56 and Col. 13, Lines 35-43].

Claim 120 is rejected under the same rationale set forth above to claim 126.

Claims 121-122 are rejected under the same rationale set forth above to claims 127-128, respectively.

Claim 124 is rejected under the same rationale set forth above to claim 130.

Claim 125 is rejected under the same rationale set forth above to claim 131.

Claim 113 is rejected under the same rationale set forth above to claim 126.

Claims 114-115 are rejected under the same rationale set forth above to claims 127-128.

Claim 117 is rejected under the same rationale set forth above to claim 127.

Claims 118-119 are rejected under the same rationale set forth above to claims 130-131, respectively.

Claim 104 is rejected under the same rationale set forth above to claim 126. In addition, Moura further teaches routing download and upload data to the client computer network via the computer network, i.e., backbone network 20 and HAS POP 26 [see Figs. 1-4].

Regarding claims 105-106, Moura further teaches the computer network is a local area network (LAN) or a wide area network (WAN) [see Figs 1-4].

Claims 107-108 are rejected under the same rationale set forth above to claims 127-128, respectively.

Claims 110-111 are rejected under the same rationale set forth above to claim 130-131, respectively.

Regarding claim 112, Moura further teaches the server computer operates to route the download data to a plurality of computer networks (i.e., routing the download data through downstream router to a plurality of clients via a multiple network channels) [see Figs. 1-4 and Abstract and Col. 6, Line 57 - Col. 7, Line 20].

Claim 95 is rejected under the same rationale set forth above to claim 104.

Claims 96-97 are rejected under the same rationale set forth above to claims 105-106.

Claims 98-99 are rejected under the same rationale set forth above to claims 107-108, respectively.

Claim 101 is rejected under the same rationale set forth above to claim 110.

Claim 102 is rejected under the same rationale set forth above to claim 111.

Claim 103 is rejected under the same rationale set forth above to claim 112.

Claim 85 is rejected under the same rationale set forth above to claim 104. In addition, Moura further teaches routing download/upload data to/from a plurality of clients/users [see Figs. 1-4 and Abstract and Col. 6, Line 57 - Col. 7, Line 20].

Claims 86-87 are rejected under the same rationale set forth above to claims 105-106.

Claims 88-89 are rejected under the same rationale set forth above to claims 107-108, respectively.

Claim 91 is rejected under the same rationale set forth above to claim 107.

Claim 92 is rejected under the same rationale set forth above to claim 110.

Claims 93-94 are rejected under the same rationale set forth above to claims 111-112, respectively.

Claim 75 is rejected under the same rationale set forth above to claim 104. In addition, Moura further teaches routing download/upload data to/from a plurality of clients/users [see Figs. 1-4 and Abstract and Col. 6, Line 57 - Col. 7, Line 20].

Claims 76-77 are rejected under the same rationale set forth above to claims 105-106.

Claims 79-80 are rejected under the same rationale set forth above to claims 107-108, respectively.

Claims 82-83 are rejected under the same rationale set forth above to claims 110-111, respectively.

Claim 84 is rejected under the same rationale set forth above to claim 112.

Claim 55 is rejected under the same rationale set forth above to claim 75.

Claims 56-57 are rejected under the same rationale set forth above to claims 76-77.

Regarding claims 59-62 and 65-68, Moura further teaches land-line communication, ISDN connection, T1 connection, modem, wireless communication, and satellite link [see Figs. 1-4 and Abstract and Col. 5, Lines 22-52].

Claims 69-70 are rejected under the same rationale set forth above to claims 79-80.

Claims 72-73 are rejected under the same rationale set forth above to claims 82-83, respectively.

Claim 74 is rejected under the same rationale set forth above to claim 84.

Claim 41 is rejected under the same rationale set forth above to claim 75.

Claims 42-43 are rejected under the same rationale set forth above to claims 76-77.

Regarding claim 45, Moura further teaches the communications system of claim 42 wherein the upload data is sent at a substantially lower rate than the download data is being received (i.e., low-speed upstream and high-speed downstream)[see Fig. 1 and Abstract].

Regarding claim 46, Moura further teaches the communications system of claim 42 wherein the bi-directional electronic communications is asymmetric [see Figs. 1-4 and Abstract].

Regarding claim 47, Moura further teaches the communications system of claim 42 wherein said communications device is capable of receiving additional download data (i.e., routing data) [see Fig. 4 and Abstract].

Regarding claims 48-49, Moura further teaches the communications system of claim 42 wherein the communications device comprises a land-line communications device and a wireless communications device [see Figs. 1-4 and Abstract and Col. 5, Lines 22-52].

Claims 50-51 are rejected under the same rationale set forth above to claims 79-80.

Claims 53-54 are rejected under the same rationale set forth above to claims 82-83, respectively.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 44, 52, 58, 63-64, 71, 78, 81, 90, 100, 109, 116, 123 and 129 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Moura et al (Hereafter, Moura), U.S. Pat. No. 5,586,121.

Regarding claim 129, Moura does not explicitly teach the method as defined in claim 128 wherein said intermediate storage medium includes a cache. However, the use of a cache for storing data is well-known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement the intermediate storage medium as a cache for quick accessing to frequently used data.

Claim 123 is rejected under the same rationale set forth above to claim 129.

Claim 116 is rejected under the same rationale set forth above to claim 129.

Claim 109 is rejected under the same rationale set forth above to claim 129.

Claim 100 is rejected under the same rationale set forth above to claim 109.

Claim 90 is rejected under the same rationale set forth above to claim 109.

Claim 81 is rejected under the same rationale set forth above to claim 109.

Regarding claim 78, Moura does teach the server computer is programmed to route the download data to a plurality of client computers on the computer network [see Figs. 1-4 and Abstract and Col. 6, Line 57 - Col. 7, Line 20]. Moura does not explicitly teach the server routes the download data to a plurality of clients irrespective of the client's operating systems such that the server computer does not require the same operating system for each client of the plurality of

clients. However, the use of different operating systems on the computers are old and well-known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement different operating systems on a plurality of computer systems for providing an advantage of allowing communication among different platforms in the network.

Claim 71 is rejected under the same rationale set forth above to claim 81.

Regarding claims 63-64, Moura does not explicitly teach a frame-relay network and ATM. However, the use of frame-relay and ATM are old and well-known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement different types of network for efficiently transmitting metadata in real-time.

Claim 58 is rejected under the same rationale set forth above to claim 78.

Claim 52 are rejected under the same rationale set forth above to claim 81.

Claim 44 is rejected under the same rationale set forth above to claim 78.

Other References Cited

5. The following references cited by the examiner but not relied upon are considered pertinent to applicant's disclosure.

A) Dillon, U.S. Pat. No. 5,995,726.

B) Rothblatt, U.S. Pat. No. 6,105,060.

- C) Donahue et al, U.S. Pat. No. 6,101,180.
- D) Clarke, Jr. et al, U.S. Pat. No. 6,085,235.
- E) Black et al, U.S. Pat. No. 6,377,561.
- F) Dawson et al, U.S. Pat. No. 5,594,490.

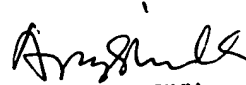
6. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS, OR THIRTY DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (703) 308-8767. The Group fax phone number is (703) 746-7239.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh, can be reached on (703) 305-9648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

PBT
Philip B. Tran
Art Unit 2155
Nov 13, 2002


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100